

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-4023

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

GREGG L. GAMBLE,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Robert E. Payne, District Judge. (CR-00-239)

Submitted: June 23, 2004

Decided: July 14, 2004

Before WILKINSON, LUTTIG, and MICHAEL, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Frank W. Dunham, Jr., Federal Public Defender, Robert J. Wagner, Assistant Federal Public Defender, Meghan S. Skelton, Research and Writing Attorney, Richmond, Virginia, for Appellant. Paul J. McNulty, United States Attorney, Stephen W. Miller, Assistant United States Attorney, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Gregg L. Gamble appeals from the district court's judgment revoking his term of supervised release and imposing a term of imprisonment of one year and one day. On appeal, Gamble asserts the district court erred in concluding he violated the terms of his supervised release by using marijuana, and failed to consider factors that would have resulted in a shorter term of imprisonment upon revocation.

This Court reviews a district court's revocation of an individual's supervised release for abuse of discretion. United States v. Copley, 978 F.2d 829, 831 (4th Cir. 1992). Upon review, we conclude that Gamble's claim is meritless. The Government's evidence was sufficient to establish by a preponderance of the evidence that Gamble violated the terms governing his supervised release. See 18 U.S.C. § 3583(e)(3) (2000). Moreover, the district court chose the sentence imposed because Gamble continued to use marijuana after a prior revocation proceeding at which the court had declined to revoke supervised release. We cannot say that this decision amounted to an abuse of discretion.

Accordingly, we affirm the district court's judgment of revocation of Gamble's supervised release, and its consequent imposition of imprisonment. We dispense with oral argument because the facts and legal contentions are adequately presented in the

materials before the court and argument would not aid the decisional process.

AFFIRMED